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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/717,102	11/19/2003	Phillip George Skeba	20103/A00482-1	7311
83417                      7590                      12/23/2008 AT&T Legal Department - ATTN: Patent Docketing One AT&T Way Room 2A-207 Bedminster, NJ 07921				
EXAMINER				
TRAN, PHUC H				
ART UNIT		PAPER NUMBER		
2416				
MAIL DATE		DELIVERY MODE		
12/23/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/717,102

**Applicant(s)**

SKEBA ET AL.

**Examiner**

PHUC H. TRAN

**Art Unit**

2416

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 08 September 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 21, 22, 24, 25 and 38-41 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 21, 22, 25 and 38-41 is/are rejected.
- 7) ☒ Claim(s) 40 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 21-22, 25, 38, 39 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson et al. (U.S. Patent No. 5909463) in view of Gitlin et al. (U.S. Patent No. 6064662).

- With respect to claims 21-22, and 25, Johnson teaches a multiple channel system for a twisted pair telephone wire local loop system (e.g. Fig. 1 shows the wire local loop), comprising: a subscriber gateway system has a first transceiver connected to the twisted pair telephone wire, the first transceiver sending and receiving multiple independent channels (e.g. block 38 in Fig. 1);

an second transceiver at a central office connected to the twisted pair telephone wire, the second transceiver sending and receiving multiple independent channels (block 12 in Fig. 1); and

a plurality of digital filters, operatively coupled to the first and second transceivers (e.g. block 6, 22, 34 and 48 in Fig. 1). Johnson fails to teaches to convey a signal via an available frequency band associated with the multiple independent channels. Gitlin teaches the signal into an available frequency band (see fig. 6 of Gitlin and col. 4, lines 43-45) for transmitting signal. Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention was made to implement the method of signals into the available frequency band in

order to transmit in channels; further comprising a digital subscriber line access multiplexer coupled to an output of the second transceiver (e.g. ADSL in Fig. 1).

- With respect to claim 38, Johnson teaches wherein the first transceiver in the subscriber gateway is to transmit a plurality of frequency division multiplexed signals (e.g. Frequency domain discloses in Fig. 3 and 4).

- With respect to claim 39, Johnson discloses wherein the first transceiver in the subscriber gateway is to transmit a plurality of time division multiplexed signals (e.g. Fig. 3 shows the IFFT form frequency to time domain).

- With respect to claim 41, Johnson teaches further comprising a local circuit switch coupled to an output of the second transceiver (e.g. the output interface in Fig. 3).

3. Claim 40 is rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson et al. (U.S. Patent No. 5909463) and Gitlin in further view of Palm (U.S. Patent No. 6735245).

- Johnson fails to teach transmits a plurality of CDMA signal. Palm teach the CDMA (col. 10, lines 19-22) for providing greater bandwidth capacity, less interference and protection. Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention was made to utilize the CDMA into Johnson's system for protecting signal, less interference and greater bandwidth capacity.

#### ***Response to Amendment***

4. Applicant's arguments with respect to claims 21-22, 24-25, 38- 41 have been considered but are moot in view of the new ground(s) of rejection.

5. Claim 24 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. In response to Applicant's argument on 02/28/2008 that "examiner fails to demonstrate that a serious burden would be place on the examiner if election were not require". In the office action 02/05/2008, Examiner disclosed the different sub-classification as:

- I. Claims 21-22, 24-25, and 38-41 drawn to a subscriber gateway has transceivers and digital filters classified in class 370, subclass 401.
- II. Claims 27, 29, 32-37, and 42 drawn to a bandwidth allocation system for a twisted pair telephone wire, classified in class 370, subclass 468.

and the subject matter of group I and II are different as "the subscriber gateway" vs. "a bandwidth allocation system". Therefore, the subclasses are 401 and 468. Because of theses invention listed in this application are independent or distinct for the reason given above and there would be a serious search and examination burden if restriction were not required.

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See PTO 892

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PHUC H. TRAN whose telephone number is (571)272-3172. The examiner can normally be reached on M-F (8-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, CHI PHAM can be reached on (571) 272-3179. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/PHUC H TRAN/  
Examiner, Art Unit 2416